

From: Dan Pandre
To: Microsoft ATR
Date: 12/30/01 9:34pm
Subject: Microsoft Settlement

There are two issues of monopoly maintenance, one of which I believe the revised proposed final judgment misses. The contract/licensing issues that prevent OEMs and others from switching away from Microsoft products, or to building integrated solutions have for the most part, adequate solutions in the settlement. The one that it completely misses is the programmatic ways in which Microsoft maintains its monopoly. By use of their power, they have been able to charge anything they want for what is, ultimately, a commodity. A computer without an [available] operating system, or an office suite arguably, is without real commercial value. Yet Microsoft has nothing to fear from competitors attempting to replace them in the market, because they control all integrative bundling; their products will work better (or with less effort) with their other products, regardless of any attempts by competitors to replace individual commodities in their product line. The fact that bundling occurs is not in and of itself a bad thing; it makes things easier for the end user. However, regulating this bundling on an individual basis is a brain-dead approach. Any other developers should be able to integrate their products with Microsoft's on the same level of tightness that Microsoft itself does. For this to be possible, all Microsoft APIs (Application Programming Interface) of all products must be fully documented, up to date, and public. Their previous [documented] attempts to 'embrace and extend' existing standards to tie people to their products will no longer function. Also, all developers will be able to, for example, make emulators that run Microsoft software on other platforms, or add a new file system to windows, or in the case of AOL, instant messaging, browsing, and shopping; all of which Microsoft's Windows XP provides, furthering it's grasp on the end user's possible spending and product use. The fact that their monopoly exists necessitates the openness of their APIs, otherwise they can, by pricing, licensing, or simple permission deny any competitors the opportunity for innovation. To this end, they should be monetarily punished for their illegal uses of monopoly force in the past and their compliance with open API requirements should be monitored closely. The judgment as it stands misses the technological points of monopoly maintenance, and establishes neither precedent nor deterrent for future such attempts by Microsoft.

-Dan Pandre

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